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# LOS ANGELES BAR BULLETIN



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VOL. 25

JUNE, 1950

No. 10

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# Los Angeles BAR BULLETIN

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VOL. 25

JUNE, 1950

No. 10

## THE PRESIDENT'S PAGE

### Two Important New Special Committees



Dana Latham

THE Trustees have just approved the appointment of two special committees. The personnel of each appears elsewhere in this issue of the BAR BULLETIN.

#### (1) *Special Committee on Bar Association Quarters and Club Rooms.*

Every local Bar Association comparable in size to Los Angeles has its own permanent quarters and club rooms. As a matter of fact, certain smaller Associations have luncheon and recreation facilities of which we could well be proud.

This problem has been explored on occasion in the past. For one reason or another, however, nothing has been done. There are some who feel that we cannot afford it; others, that our members are so scattered geographically that it would be impossible to agree upon a convenient central meeting place.

Your officers and Trustees feel strongly that the problem is worthy of a complete restudy. In cities like New York and Chicago where elaborate executive offices, dining room and recreation facilities are maintained, similar objections were originally raised. Nevertheless, in both cities the club room and recreation facilities are widely used to the benefit of all the members of the Bar.

During 1949 the San Francisco Bar Association, which is much smaller than ours and whose dues are approximately 50% greater, decided to do something about the very problem here being discussed. By voluntary contributions from a large percentage of

(Continued on page 322)

## TAX CONSEQUENCES OF SALE OF CORPORATE ASSETS BY STOCKHOLDERS

By Adrian A. Kragen\*



Adrian A. Kragen

THE Supreme Court of the United States has for many years enunciated the somewhat illusory doctrine that in tax matters substance controls over form.

*Gregory v. Helvering*, 293 U. S. 465, 79 L. Ed. 596;

*Griffiths v. Commissioner*, 308 U. S. 355, 84 L. Ed. 319;

*Higgins v. Smith*, 308 U. S. 473, 84 L. Ed. 406.

It has been somewhat difficult for attorneys to advise their clients as to the tax consequences of a transaction when faced with the prospects that the Courts will uphold the Commissioner in his theory that the business purpose of the transaction was insignificant and that tax consequences apparently compelled by the Internal Revenue Code should be disregarded.

This difficulty has been especially present in relation to advice as to the sale of corporate assets since the decision of the Supreme Court in *Commissioner of Internal Revenue v. Court Holding Co.*, 324 U. S. 331, 89 L. Ed. 981. The *Court Holding* case involved a fairly simple set of facts. A husband and wife were sole stockholders of a corporation. On behalf of the corporation they agreed to the sale of the sole asset of the corporation but prior to the execution of the formal contract were informed of the tax consequences of a sale by the corporation. Thereupon they dissolved the corporation and distributed the asset which they immediately sold for the same price to the same individuals with whom the oral agreement had been made. The Tax Court found that the corporation had not abandoned the transaction and was taxable upon the gain therefrom. The Supreme Court following the rule enunciated in *Dobson v. Commissioner*, 320 U. S. 489, 88 L. Ed. 248, held that the findings of the Tax Court being supported by evidence were conclusive.

The determination would not have provoked any unusual con-

\*A.B., LL.B., School of Jurisprudence, University of California. Private practice Oakland, California, 1934-1939. Deputy Attorney General, State of California, 1940-1944. Lecturer on taxation, School of Jurisprudence, University of California, 1943-1944. Loeb and Loeb, 1944—partner since January 1, 1946.

sternation among members of the Bar were it not for the language used by the Court in upholding the Commissioner. The Court again stated what might be termed the "substance not form" theory in the following language:

"The incidence of taxation depends upon the substance of a transaction. The tax consequences which arise from gains from a sale of property are not finally to be determined solely by the means employed to transfer legal title. Rather, the transaction must be viewed as a whole, and each step, from the commencement of negotiations to the consummation of the sale, is relevant. A sale by one person cannot be transformed for tax purposes into a sale by another by using the latter as a conduit through which to pass title. To permit the true nature of a transaction to be disguised by mere formalisms, which exist solely to alter tax liabilities, would seriously impair the effective administration of the tax policies of Congress."

The result of the *Court Holding Co.* case has been that many members of the Bar cautioned their clients, who were stockholders in closely held corporations, that no negotiations relative to the sale of assets held by a corporation could be commenced until the assets were distributed to the stockholders. This position was not necessitated by the *Court Holding* case and was in effect repudiated by a number of decisions of the Federal Courts subsequent to the *Court Holding* case.

*Howell Turpentine Co. v. Commissioner of Internal Revenue*, 162 F. (2d) 319;

*U. S. v. Cummins Distilleries Corp.*, 166 F. (2d) 717;

*Dallas Downtown Development Co.*, 12 T. C. 114;

*Armored Tank Corp.*, 11 T. C. 644;

*Ripy Brothers Distillers Inc.*, 11 T. C. 326.

However, considerable justification existed for the conservative attitude of counsel by reason of the ambiguous and all-pervading nature of the "substance not form" doctrine and its application by some courts to the sale of corporate assets situation.

*Guinness v. U. S.*, 73 F. S. 119;

*Kaufman v. Comm.*, 175 F. (2d) 28;

*Mercer Steel Barrel Co. v. Comm.*, 144 F. (2d) 282;

*Koppers Coal Co.*, 6 T. C. 1209.

For example, in the *Guinness* case, the Court in holding that a corporation which had distributed an asset to its sole stockholder,

(Continued on page 324)

## EFFECT OF FATHER'S DEATH UPON DUTY IMPOSED BY SEPARATION AGREEMENT TO SUPPORT CHILD

By Stanley A. Barker\*



Stanley A. Barker

SEPARATION agreements commonly contain provisions whereby the husband agrees to pay to the wife certain sums for the support and maintenance of minor children of the marriage. The purposes of this article are: (1) to indicate the circumstances under which such provisions give rise to a claim against the father's estate for support payments that become due *after* the father's death; and (2) to outline briefly some of the procedural problems involved in filing such claims against the father's estate and in enforcing rejected claims by legal action.

*Survival of claim for support.* The duty of a father to support his minor children continues after the death of the father and gives rise to a claim against his estate if that duty is based upon or established by either of the following: (1) a contract (such as a separation agreement) which does not expressly limit the obligation of support to the lifetime of the father;<sup>1</sup> or (2) a divorce decree which is founded upon a prior agreement of the parties and which does not expressly limit the obligation of support to the lifetime of the father.<sup>2</sup>

A husband and wife may, upon separation, enter into a contract which provides for the support of their minor children.<sup>3</sup> Such a contract fixes the rights and obligations of the parties, unless and until it is modified by an order of the court. If the separation agreement is not modified by court order, its provisions relating to the support of minor children can be enforced against the

\*Mr. Barker holds a Bachelor of Science Degree (summa cum laude) from the University of Southern California and a Bachelor of Laws Degree from the same university. He served in U. S. Naval Air Corps from 1942-1946 and was released from active duty as a lieutenant. In 1948 he lectured on domestic relations under the sponsorship of the State Bar Committee on Continuing Education of the Bar. (Photo courtesy Bench & Bar.)

<sup>1</sup>*Estate of Caldwell*, 129 Cal. App. 613, 19 Pac. (2d) 9 (1933).

<sup>2</sup>*Newman v. Burwell*, 216 Cal. 608, 15 Pac. (2d) 511 (1932). For cases dealing with the liability of a father's estate when the divorce decree is not based upon an agreement of the parties, see 62 HARV. L. REV. 1079 (1949). Also see *Taylor v. George*, 34 A. C. 593 (Dec., 1949), in which the California Supreme Court, by dictum, indicated that since a divorce decree is a "contract," it may be enforced after the father's death irrespective of whether or not it is based on a prior separation agreement.

<sup>3</sup>CAL. CIV. CODE, Sec. 159.

father's estate after his death unless the agreement expressly provides that the father's obligation of support abates with his death. Thus, in *Estate of Caldwell*,<sup>4</sup> a husband and wife entered into a separation agreement which, among other things, provided that the husband would pay to the wife for the benefit of their minor child the sum of \$100 per month during the child's minority. Payments were to cease, however, if the minor child married before reaching the age of majority. The parties to the agreement subsequently were divorced, but the separation agreement was not presented to the court and no court order respecting support of the child was made. Upon the death of the husband, it was held that his estate was liable for the continuation of the payments for the support of the minor child until the child either married or reached the age of majority.

Similarly, if the obligation of a father to support his minor children is fixed by a court order based upon a prior agreement of the parties, it is enforceable against the father's estate unless under the express terms of the court order the duty of support ceases upon the death of the father. For example, when a court approves a separation agreement and orders the father, "until further order of the court," to comply with the terms of that agreement insofar as it relates to the support of minor children, the obligation of the father to support the children survives the father's death because his obligation is not expressly limited to his lifetime.<sup>5</sup> In *Newman v. Burwell*,<sup>6</sup> the contention was made by the representative of a father's estate that the obligation of the father to support his minor child, fixed by a court decree at \$50.00 per month "until further order of the court," terminated upon the death of the father because the decree did not require payments to be made for some definite period of time, such as, for example, "during the minority of the child." The Supreme Court of California pointed out that the necessity for the support of a minor child is the same whether the father be alive or dead and held that a claim for child support will survive the father's death unless there is express language limiting the obligation of support to the lifetime of the father.

<sup>4</sup>129 Cal. App. 613, 19 Pac. (2d) 9 (1933).

<sup>5</sup>*Newman v. Burwell*, 216 Cal. 608, 15 Pac. (2d) 511 (1932). See 62 HARV. L. REV. 1079 (1949) for cases in other jurisdictions on this problem.

<sup>6</sup>216 Cal. 608, 15 Pac. (2d) 511 (1932).

## Brothers-In-Law

### And What They Are Doing in OTHER BAR ASSOCIATIONS

By George Harnagel, Jr., Associate Editor



George Harnagel, Jr.

THE members of the State Bar of TEXAS apparently found their pocket-books less sensitive than their pride when advised by their Board of Directors that their annual dues of \$4 were less than those paid by most other occupational groups in the state (*e.g.*, osteopaths, \$75; real estate brokers, \$60; master plumbers, \$50; chiropractors, \$45; M.D.'s, \$20; beauticians and barbers, \$5). In any event, they have voted approval of an increase to \$8 a year.

\* \* \*

The DAYTON Bar Association has referred to its Legislative Committee the suggestion of Judge Don R. Thomas of the Montgomery County Court of Common Pleas "that Ohio law should be purged of words which have become vulgarities in the minds of the public." Judge Thomas has singled out "bastard" as a likely place to start. "Let us relegate use of this word," he says, "to the place where it belongs . . ."

\* \* \*

The WISCONSIN Bar Association, in cooperation with the Schools of Law and Medicine of Marquette University and the MILWAUKEE Bar Association, is sponsoring a Post Graduate Institute in Law-Medicine Problems and Forensic Medicine.

\* \* \*

The Bar Association of the DISTRICT OF COLUMBIA has budgeted \$5,000 for a series of institutional advertisements in the District's newspapers. The purpose of the series is to acquaint the public with the training and qualifications of the legal profession and the services it is able to render. Those advertisements frankly advise the layman to "consult your lawyer, first . . . he is trained for your protection."

(Continued on page 338)

**TAX NOTES—****By Sidney D. Krystal****CALIFORNIA INHERITANCE TAX  
"MARITAL DEDUCTION"**

Effective April 6, 1950, at 2 p. m., a new provision was added to the California inheritance tax in order to correlate the California death levy with the federal estate tax in so far as the marital deduction is concerned.

In view of the amazing complexities of the lengthy federal marital deduction provisions, the new California provision, Section 13805 of the Revenue and Taxation Code, is astringently short. It reads in full as follows:

"Property equal in amount to the clear market value of one-half of the decedent's separate property shall, if transferred to the spouse of the deceased, be exempt from the tax imposed by this part. A transfer, for the purpose of this exemption, shall include a transfer of property in trust with a general or limited power of appointment in the surviving spouse. This exemption shall be in addition to all other exemptions under this part."

This provision differs markedly from the federal law. The nature of the property interest received by the surviving spouse is immaterial. The concept of "terminable interest" is not involved. Although Section 13805 does not define the word "transfer," it would appear from the definition of that word contained in other parts of the Inheritance Tax Act that any transfer of separate property or any interest therein to the surviving spouse which is taxable for purposes of the California inheritance tax will qualify for the marital exemption. Thus, a transfer of a life estate, whether or not in trust, would qualify under California law although it does not for federal purposes. Any transfer of separate property which qualifies for the federal deduction will also qualify for the California provision.

It is to be noted that the new California provision is not a deduction but an exemption. As an exemption it will operate to consume the lower brackets of the tax rates, thereby increasing the amount of tax, when property in addition to one-half of the decedent's separate property is also transferred to the surviving spouse, over the amount of tax that would have been payable had the new provision been framed as a deduction.

By exempting one-half of the "clear market value" of property

*(Continued on page 330)*

## THE CITY ATTORNEYS OF LOS ANGELES: The War Clouds Gather While California Lawyers Litigate Land Titles: 1850-1860

By Leon Thomas David

### IV.



Leon Thomas David

ON JULY 4, 1848, President Polk proclaimed the Treaty of Guadalupe Hidalgo with the Republic of Mexico. Article VIII made inviolate the individual property rights of Mexicans in California under the new flag. Nevertheless to new settlers, flocking into California, the ownership of the land they occupied was frequently immaterial. When land had been abundant, and Mexican governors generous, the marking of rancho boundaries

had been most informal. At San Francisco, an army officer, purporting to act as a *de facto* alcalde, granted away the lands of the pueblo of San Francisco.

As to these alcalde grants, the battle raged through fifteen volumes of California reports, debating whether San Francisco had ever been a pueblo, whether it had ever had any pueblo lands, whether an alcalde could grant them away, and whether the army officer grantor in question had ever been an alcalde. Successive courts reached contrary conclusions. Speculators wagered as to which decision would remain unreversed long enough for *stare decisis* to freeze it into law.

Bound by solemn treaty to guarantee the preexisting titles, John C. Fremont and Wm. M. Gwin, the first senators from California, brought action from Congress. Pursuant to statutory authorization, a Land Commission was appointed and came to California. In five years' time, the commission confirmed 604 titles and rejected 190, and all but 19 of its decisions were appealed to the United States District Courts.

Captain Henry Halleck, the mainspring of the California constitutional convention and military secretary of state, resigned from the army, and the firm of Halleck, Billings, Peach & Park leaped into prominence in the land litigation. The name of Judah P. Benjamin was heard frequently in San Francisco, where most

of the sessions of the Land Commission were held. Cameron E. Thom arrived in Los Angeles in 1852, representing the government as land commissioner. He established himself at the Bella Union Hotel (until the rains of 1855 caused the flat roof to cave in), and found time to be elected City Attorney.

Isaac Hartman also arrived in 1852, and was Special Assistant Attorney General, representing the government in land case appeals through 1861. In 1854-55, he also served as City Attorney of the town of Los Angeles. Samuel F. Reynolds arrived to practice law, but after serving as City Attorney from 1859 to 1862, moved on to San Francisco, where he became District Judge. Charles E. Carr held the office in 1853-4, and then served as State Assemblyman.

Outside of the short session of the Land Commission in Los Angeles in 1852, the legal frenzy over titles found in San Francisco did not materialize in Los Angeles. The rancheros quietly sought to have their titles confirmed, and lawyers kept busy, particularly J. Lancaster Brent. In May, 1851, W. C. Jones petitioned the City Council for an appointment to present the city land claims. But it was Brent who secured the contract, \$3000 to be paid him for representation before the Land Commission, \$3000 more for appeal to the District Court, and another \$3000 if the litigation went to the Supreme Court. Brent, who also had served as City Councilman and City Attorney, secured confirmation of the City's right to the four square leagues of pueblo lands.

The new State Supreme Court saw little of Los Angeles lawyers. Murder trials were frequent, in the City of the Angels, but capital sentences were speedily executed and minor offenses did not count. Few litigants appealed civil judgments. Whether Los Angeles was a blissful arcady or whether the distance, time and expense involved were major deterrants, the fact is that only thirteen cases in the first eight volumes of California Reports originated in Los Angeles.<sup>8</sup>

<sup>8</sup>*Keller v. Ybarra*, 3 Cal. 147, breach of contract to supply grapes; *Dominguez v. Dominguez*, 4 Cal. 187, action to set aside conveyance, Scott & Granger, and H. P. Hepburn, counsel; *Isaac Hartman v. Isaac Williams*, 4 Cal. 254, breach of oral contract, Scott & Granger, counsel; *De Johnson v. Sepulveda*, 5 Cal. 150, ejectment, Scott, Granger & Brent, of counsel; *Martinez v. Gallardo*, 5 Cal. 155, appellate procedure, Norton and Hartman, Scott and Granger, counsel; *Keller v. DeFranklin*, 5 Cal. 433, probate appeal, J. R. Scott, counsel; *Stearns v. Aguirre*, 6 Cal. 177, prom. note, J. L. Brent and J. R. Scott, counsel; *People v. Carpenter*, 7 Cal. 403, bail bond forfeiture; *People v. Olivera*, 7 Cal. 704, perjury; *Dominguez v. Dominguez*, 7 Cal. 424, to set aside sale of realty, Sloan & Hartman, and J. L. Brent, counsel; *McFarland v. Pico*, 8 Cal. 626, presentment and demand on commercial paper, J. R. Scott, counsel.

It is also entirely possible that the local charges and their decisions enjoyed high popular repute.<sup>9</sup>

During this period, Los Angeles was Democratic in its national politics. There were rumblings and distant echoes of great political controversy raging between North and South. California's admission to the Union had been part of Henry Clay's compromise of 1850. California's Supreme Court had decided that although California was a free state where slavery was prohibited by the Constitution, slaves brought into the State by their masters were to be delivered up to him as his property, when he sought to repossess them.

Had California not been so remote from the remainder of the United States this decision might well have become the rallying point of the abolitionists.<sup>10</sup>

The issue of "North" versus "South" was localized in California. The southern part of the state in 1859 still strongly represented the Mexican-Californian influence. The immigrants outweighed all others in the north. The Tehachapi Mountains were a formidable barrier between the sections. Gold was the quest of the Northerner, the Southern Californian predominantly remained a rancher and agriculturist.

Beginning in 1855, members of the legislature led a movement for division of the state of California into three states. In 1859, a bill passed both houses of the legislature and was signed by the governor, providing for the division of California.<sup>11</sup>

At the general election of 1859, the proposition carried, and was forwarded to Congress. The area south of San Luis Obispo was to constitute the new State of Colorado.

Congress took no action to recognize the division. The Congress had maintained equilibrium between the Northern and the Southern states by the Compromise of 1850. The Kansas-Nebraska question was generating threats of disunion. To divide California would have added fuel to the mounting flame.

## Disunion and War: 1861

### V.

When J. Lancaster Brent arrived in Los Angeles in 1850, he soon became the unofficial political leader of the town. He ad-

<sup>9</sup>Frank Belcher, Esq., may want to make a note of this.

<sup>10</sup>*In re Perkins*, 2 Cal. 724.

<sup>11</sup>Cal. Stats. 1859, Chap. 288, p. 310.

(Continued on page 334)

## OPINION OF THE COMMITTEE ON LEGAL ETHICS, LOS ANGELES BAR ASSOCIATION

### OPINION NO. 171.

(March 29, 1950)

**ADVERTISING—COMMUNITY DIRECTORY.** It is not proper for an attorney to insert a picture and biographical sketch in a community publication not confined to members of the profession.

The committee has been asked for its opinion as to whether or not it is proper for an attorney to have his name and biographical sketch published in a community publication, which publication is to contain biographical sketches of citizens of that community including attorneys. The publication is to contain the biographical sketch of those who are willing to pay \$50.00 to have the sketch inserted, and \$100.00 to those who are willing to have the sketch together with a picture included.

The question presented for our opinion has been presented so frequently before and the opinions are so numerous that such conduct is improper, that only a brief answer is necessary here.

Canon 27 of the American Bar Association Canons of Professional Ethics does not permit the insertion of a professional card in any publication other than in a reputable law list (Opinions of the Committee on Professional Ethics and Grievances of the American Bar Association numbered 24, 53, 69, 116, 133 and 182).

Our committee has pointed out that a reputable law list is one which is confined to members of the profession. Thus, in Opinion 90 our Committee adopted the following rule:

"A publication the circulation of which is not confined to members of the profession is not within the term 'reputable law directory' or the term 'reputable law list.'"  
(Opinion of the Committee on Legal Ethics of the Los Angeles Bar Association numbered 90.)

To the same effect see:

Opinions numbered 107 and 169.

While it is not clear from the inquiry which has been made whether the question presented to us concerns mere subscription by the attorney to the publication, as indicated in Paragraph 1 of the letter, or whether it concerns the listing by an attorney of

*(Continued on page 330)*

## Silver Memories

Compiled from the Daily Journal of June, 1925  
By A. Stevens Halsted, Jr., Associate Editor



A. Stevens Halsted, Jr.

THE United States Supreme Court has declared unconstitutional the Oregon public school law which did away with private and parochial schools by requiring all children between the ages of 8 and 16 to attend public schools. The Court held that the law, if enforced, would destroy private schools, and interfere unlawfully with the right of parents to direct the upbringing and education of their children.

\* \* \*

Senator **Robert M. La Follette** of Wisconsin, for many years one of the leading figures in American politics, died from heart failure. "Fighting Bob," the name by which he was known to political friends and enemies alike, served three terms in the House of Representatives, three terms as Governor of Wisconsin and was four times elected to the U. S. Senate. Among the controversial measures for which he stoutly battled were: for the direct primary and the direct election of U. S. Senators; for workmen's compensation and safety appliance acts; for regulation of railroads in Wisconsin and government valuation and railroad rate classification; for regulation of telephone and telegraph rates; for publicity of political campaign expenditures; an eight-hour law for government and state employees act fixed railroad hours of service; for parcel post; for a federal estate tax; for protection of women workers; for laws against child labor; for a stricter definition of business trusts; and for exemption of cooperative farmer and labor organizations from anti-trust law.

(Continued on page 340)

## NEW PROCEDURE FOR OBTAINING POLICE TRAFFIC REPORTS

W. A. Worton, Chief of Police of Los Angeles, has announced a new procedure whereby proper parties may obtain photostatic copies of traffic accident reports.

Effective May 15, 1950, parties concerned in accidents investigated by the Los Angeles Police Department, or their authorized representatives, may order from the Traffic Bureau photostatic copies. Such orders must be placed in person. A charge of 25 cents per page is to be assessed. The photostats will be mailed at such time as any criminal proceedings arising from the accident have been terminated.

The Board of Public Works has revoked the permits of all individuals and firms who have heretofore been authorized to make such photostatic copies.

### Los Angeles Bar Association

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*Editor in charge of this issue—Edward C. Jones.*

## THE PRESIDENT'S PAGE

*(Continued from page 309)*

its members it raised approximately \$40,000. It then leased the 21st floor of the Mills Tower and equipped it with luncheon and general recreation facilities.

The enterprise is meeting with wide acceptance. What is really surprising is that not only does its maintenance not constitute a drain on the Association's treasury but so far it has operated at a small profit. The use of these club facilities is being gradually expanded so as to include evening functions as well as everyday use at noon and during the afternoon.

There is no requirement that things be done on a big scale, especially in the beginning. After all we must crawl before we walk. The members of the Association are earnestly requested to give the committee the benefit of their ideas and suggestions.

### *(2) Special Committee on Public Relations.*

Most of us will agree that lawyers in general fail in two particulars in their dealings with the general public: (a) they have refused to take any affirmative steps to improve the standing of their profession in the community; and (b) most lawyers are too busy making a living to devote much effort to making legal services available to the public on a useable basis and then convincing the public that these services should be used.

The solution of these problems is not easy. There are those among us who feel strongly that any radio program designed to acquaint the public with the lawyer's function may constitute a violation of the various canons of ethics which prohibit solicitation of business.

On the other hand, the following excerpt which appeared in the

● **Northwestern National Life of Minneapolis, a pioneer in the group life field, is well qualified to underwrite welfare programs resulting from collective bargaining. It offers unexcelled flexibility and service in all lines of group coverage including weekly sickness benefits, hospital and medical expenses and group life coverages.**

*Wall Street Journal* of May 4, 1950, is of interest as indicating what Associations in other cities are doing along this general line:

"'When in doubt, consult a lawyer,' is the theme of a new Philadelphia radio series plugging the services of barristers. The program, believed to be the first of its kind by the notably advertising-shy legal profession, is sponsored over station WFIL by the Montgomery County (Pa.) Bar Association. Fifteen-minute plays tell such stories as how one attorney prevented a renegade brother from illicitly obtaining the proceeds of a will and how another lawyer saved a storekeeper who faced loss of his business because he couldn't prove that he had paid a note."

The above is quoted not with the thought that we should embrace this exact method of procedure, but to make it clear that other Associations are active in this field.

Again your suggestions and advice are earnestly solicited.

DANA LATHAM.

---

## NEW COMMITTEE APPOINTMENTS

The following appointments have been made to the newly created committees referred to in the President's Page:

### SPECIAL COMMITTEE ON QUARTERS AND CLUBROOMS.

Joseph Gorman, *Chairman*.

Kenneth Cantry, *Board Member*.

Harold Birnbaum.

Paul Burks.

Hal Hoag.

John Morrow.

### SPECIAL COMMITTEE ON PUBLIC RELATIONS.

Donn Tatum, *Chairman*.

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George Breslin.

Richard Graham.

Ned Marr.

Honorable Philbrick McCoy.

Milton A. Rudin.

Loyd Wright.

### COMMITTEE ON PLEADING AND PRACTICE.

James H. Denison.

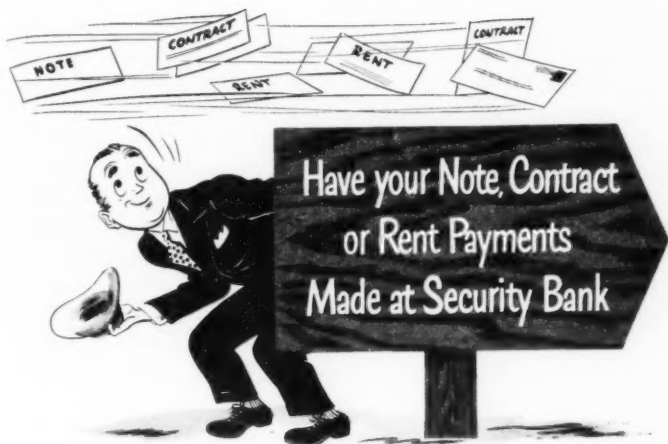
## SALE OF CORPORATE ASSETS

(Continued from page 311)

a partnership, was the seller of the asset, stated "two methods of accomplishing the same result ought to produce the same tax liability" citing *Court Holding Co.* in support of the statement. The problem that made difficult the sale of corporate assets by the distributee stockholders was not actually the *Court Holding Co.* decision but its interpretation as evidenced by the language used by the courts in decisions on this subject. Counsel facing a statement that "It has been held that where a family corporation distributes its property to its stockholders who immediately sell their property to a third party, the sale is attributable to the corporation and not the stockholders. *Commissioner of Internal Revenue v. Court Holding Co.* . . ." *Ingle Coal Corporation v. Commissioner*, 174 F. (2d) 569, is apt to be extremely reluctant to advise a stockholder client to even mention a sale of corporate assets.

This situation has been a definite deterrent to transfer of corporate assets. Many purchasers interested in acquiring the entire assets of a corporation are not willing to purchase the capital stock because of the possible hidden liabilities of the corporation such as unassessed tax delinquencies and the basis problems which arise upon a subsequent dissolution and sale of the assets. On the other hand, the stockholder faced with what is in effect a double tax burden is not willing to have the corporation sell the assets and then distribute the net proceeds. Counsel being unable to unequivocally advise the stockholder that if he individually negotiated with the purchaser and then had the assets distributed to him the corporation would not be subjected to tax on the gain from the ultimate sale many transactions desired by both parties were not consummated.

The Supreme Court at this session has finally resolved the difficulty in *U. S. v. Cumberland Public Service Co.*, 94 U. S. 237 (Jan. 9, 1950), having granted certiorari "to clear up doubts arising out of the *Court Holding Co.* case." In the *Cumberland* case the stockholders of a closely held corporation offered to sell its stock to a cooperative. The cooperative refused but made an offer to the corporation to buy its assets which the corporation refused because of tax consequences. The shareholders then offered to acquire certain assets from the corporation and sell them to the



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cooperative which offer was accepted. The corporation transferred the assets in partial liquidation and sold its other assets and dissolved. The shareholders then sold the distributed assets to the cooperative. The Commissioner relying on the *Court Holding Co.* case assessed the corporation upon the basis of the gain from the sale of the assets. The Supreme Court holding the Commissioner to be in error clearly distinguished and explained the *Court Holding Co.* case stating that in the language heretofore quoted in this article from the *Court Holding Co.* case it was merely "emphasizing the established principle that in resolving such a question as who made a sale, fact finding tribunals in tax cases can consider motives, intent, and conduct in addition to what appears in written instruments used by the parties to control rights as among themselves."

The Supreme Court specifically stated that the *Court Holding Co.* case does not mean that a corporation can be taxed even when the sale has been made by its stockholders following a genuine liquidation and dissolution. It is now obvious from the decision in the *Cumberland* case that if the stockholders can prove that they and not the corporation actually made the sale the mere fact that the corporation was first offered the opportunity to sell is not material. The mere fact that the contract is with the shareholders is of course not determinative but the true nature of the transaction must be examined. If, as in the *Court Holding Co.* case the corporation has actually negotiated the contract the mere fact that the stockholders sign the final papers does not of necessity free the corporation from tax. The transaction must be one carried out by the shareholders independent of the corporation.

It is suggested that in any transaction involving a sale of corporate assets by the shareholders that all negotiations be carried out by the shareholders in their individual capacity, that the corporation does not participate to the slightest extent in the transaction, and that the corporation dissolve prior to the sale of the assets by the stockholders.

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## CHILD SUPPORT DUTY

(Continued from page 313)

*Procedural problems.* (a) *Claims must be filed although contingent or not yet due.* Claims, to avoid being barred, must be filed within the time specified in the notice to creditors. There-

fore, one of the procedural problems that arises in connection with the filing of a claim against the estate of a father for child support payments that become due after the death of the father is that a large portion of such a claim, when filed, usually represents payments the aggregate amount of which is uncertain (because, for example, the child may die before he reaches the age of majority) or represents payments which are not yet due at the time when such a claim is filed. The fact that a claim, or a portion thereof, is contingent or not yet due does not prevent the filing of such a claim.<sup>7</sup> Contingent claims and claims not yet due not only may be filed but they must be filed within the time specified in the notice to creditors.<sup>8</sup>

(b) *Time to sue on rejected claims.* An action on a rejected contingent claim or a rejected claim not yet due will be barred unless it is commenced within two months from the date when such a claim becomes due.<sup>9</sup> It is not necessary, however, to wait until the entire rejected claim becomes due, nor is it necessary to bring successive actions as each installment or portion of the claim becomes due. It has been held in California that it is proper to bring one action and to obtain one judgment settling the entire liability of the estate to the claimant, not only with respect to installments already due but also with respect to installments which will become due in the future.<sup>10</sup> The form which that judgment may take will be dealt with in subparagraph (c).

(c) *Form of prayer of claim or form of judgment based upon claim.* The prayer of a claim based upon child support payments accruing after the death of a father should be for payment of a sum aggregating the amounts already due at the time of the filing of the claim plus the amounts which will become due in the future. With respect to the *future* installments, the claim may request payment (and, if an action is brought on the claim, the judgment may order payment) in any of four different ways:

- (1) The claim, or the judgment based upon that claim, may be for a lump sum consisting of the aggregate of all sums that may become due in the future, said lump sum

<sup>7</sup>CAL. PROB. CODE, Sec. 707; *Dabney v. Dabney*, 54 Cal. App. (2d) 695, 129 Pac. (2d) 470 (1942); *Southern Pacific Co. v. Catucci*, 47 Cal. App. (2d) 596, 118 Pac. (2d) 494 (1941).

<sup>8</sup>CAL. PROB. CODE, Sec. 707.

<sup>9</sup>CAL. PROB. CODE, Sec. 714.

<sup>10</sup>*Dabney v. Dabney*, 54 Cal. App. (2d) 695, 129 Pac. (2d) 470 (1942); *Estate of Caldwell*, 129 Cal. App. 613, 19 Pac. (2d) 9 (1933); *Newmon v. Burwell*, 216 Cal. 608, 15 Pac. (2d) 511 (1932); *Estate of Smith*, 200 Cal. 654, 254 Pac. 567 (1927).

to be paid into court and payments therefrom to be made to the claimant from the fund so deposited as each future installment becomes due.<sup>11</sup> For example, in *Newman v. Burwell*,<sup>12</sup> the claim presented was for a lump sum sufficient to pay all of the future installments for the support of a minor child until the child reached the age of majority. In an action on the rejected claim, the court stated that there is no reason why a judgment for a lump sum equal to the maximum amount necessary to pay all of the future installments could not be obtained, together with an order requiring that lump sum to be deposited in court. It has been held in other California cases and it is provided by statute that as a step in the due administration of an estate a claimant who has an unmatured installment claim may obtain from the probate court an order for the payment into court of the full amount of the claim.<sup>13</sup>

(2) The claim, or the judgment based upon that claim, may be for a lump sum consisting of the present value of all contingent installments, said lump sum to be paid to a trustee and from which the trustee may disburse each contingent installment when and if the contingency arises that makes the installment absolute. This particular form of relief was authorized by the addition in 1949 of a new section, 953.1, to the California Probate Code. In substance, the new section grants to the court, whenever there is filed a contingent claim payable in installments or upon the happening of a stated event, discretionary power to appoint a trustee to receive the present value of the contingent claim and to make payments from the fund so received as ordered by the court.

(3) The claim, or the judgment based on that claim, may be for a lump sum consisting of the aggregate of all sums that may become due in the future, said lump sum to be paid to the claimant by the representative of the estate of the decedent during the course of administration by making payment of each installment on the date when it becomes due. For example, in *Sime v. Hunter*,<sup>14</sup> a claim was based upon two promissory notes which had not yet become due at the time when the claim was filed. In an action on the rejected claim, judgment was for a lump sum payable in due course of

<sup>11</sup>*Dabney v. Dabney*, 54 Cal. App. (2d) 695, 129 Pac. (2d) 470 (1942); *Newman v. Burwell*, 216 Cal. 608, 15 Pac. (2d) 511 (1932).

<sup>12</sup>216 Cal. 608, 15 Pac. (2d) 511 (1932).

<sup>13</sup>CAL. PROB. CODE, Sec. 953; *Dabney v. Dabney*, 54 Cal. App. (2d) 695, 129 Pac. (2d) 470 (1942); *Merrill v. Hare*, 139 Cal. App. 462, 34 Pac. (2d) 194 (1934).

<sup>14</sup>50 Cal. App. 629, 195 Pac. 935 (1920).

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administration. The same form of judgment was obtained in *Lisle v. Ragle*.<sup>15</sup>

(4) The claim, or the judgment based on that claim, may be for the payment by the father's estate of each future installment as such installment becomes due. For example, in *Estate of Caldwell*,<sup>16</sup> the judgment granted in an action on a rejected claim for the support of a minor child directed the representative of the father's estate to make the payments as they became due.

(d) *Proper party to present claim and file action.* If the obligation of a father to make payments for the support of a minor child is fixed by a separation agreement or by a court decree (based on a separation agreement) which does not limit the obligation of the father to his lifetime, the mother of the minor child is the proper and necessary party to file a claim against the father's estate based on that obligation and to bring an action on the claim if it is rejected, provided that the mother has legal custody of the minor child.<sup>17</sup> If the terms of the contract or divorce decree direct that payments for the support of a minor child shall be made to the mother, the mother's action to recover those payments is an action in her own right and is not an action on behalf of the minor.<sup>18</sup>

<sup>15</sup>11 Cal. App. (2d) 537, 54 Pac. (2d) 44 (1936).

<sup>16</sup>129 Cal. App. 613, 19 Pac. (2d) 9 (1933).

<sup>17</sup>*Newman v. Burwell*, 216 Cal. 608, 15 Pac. (2d) 511 (1932); *Estate of Smith*, 200 Cal. 654, 254 Pac. 567 (1927).

<sup>18</sup>*Estate of Smith*, 200 Cal. 654, 254 Pac. 567 (1927).

## TAX NOTES

(Continued from page 315)

transferred to the surviving spouse, the California provision achieves the result of requiring a proration of deductions against separate property without the complicated determination of "adjusted gross estate" necessary under the federal law.

## LEGAL ETHICS OPINION

(Continued from page 319)

his name and biographical sketch in the publication, as indicated by Paragraph 2 of the same letter, we have assumed that the question was directed at the listing and not at the subscription to the publication. Of course, in our opinion, the mere subscription to a publication would not involve any legal misconduct.

This opinion, like all opinions of this committee, is advisory only (By-Laws, Article VIII, Section 3).

## OPINION OF THE COMMITTEE ON LEGAL ETHICS

LOS ANGELES BAR ASSOCIATION

OPINION NO. 172

(May 9, 1950)

**BUSINESS CARDS:** A business card cannot properly be circulated by a lay investigator showing the name of a lawyer and the name of the investigator.

A member of the Bar has submitted the question to this Committee as to whether the lay investigators in his employ, who assist him in adjusting claims by interviewing claimants and getting statements of witnesses, may carry cards for the purpose of introducing themselves to claimants and witnesses, which in effect read as follows:

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(Address)

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In the opinion of the Committee it is improper to use the business card described above in the manner proposed for the following reasons:

The Committee on Professional Ethics and Grievances of the American Bar Association in its Opinion 54 considered a related matter with respect to an announcement card which announced a layman's association with a law office to "have charge of all collection matters." Part of the language in that opinion is particularly applicable to the present case:

"Further, the use of the name of a layman on the stationery of a lawyer, representing the former as conducting or managing a department of the lawyer's professional activities, is improper because it too readily lends itself to the solicitation of employment or the use of it for advertising purposes by the layman so employed."

Canon 27 of the Canons of Professional Ethics of the American Bar Association provides in part that it is unprofessional to solicit professional employment by circulars, advertisements, through touters, or by personal communications or interviews not warranted by personal relations.

It is assumed that neither the lawyer who makes the inquiry nor his investigator would use the card to solicit employment, or to do any other improper act. However, there is a principle involved, and the approval by the Bar of such a card would not be in the public interest. The approval of a card such as suggested would, directly or indirectly, further solicitation or the obtaining of employment by some lawyers by use of cards. This is contrary to the letter and spirit of Canon 27. Such employment would not be warranted by personal relations between lawyer and client.

A somewhat similar problem was considered in Opinion 70 of the Los Angeles Bar Association's Committee on Legal Ethics, and a similar conclusion was reached therein. See also Question 212 and answer thereto of the Legal Ethics Committee, New York County Lawyers Association.

This opinion, like all opinions of this Committee, is advisory only.

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## THE CITY ATTORNEYS OF LOS ANGELES

*(Continued from page 318)*

dressed the Mexican population in fluent Spanish, and it was said he could nominate any candidate at will. A councilman in 1851, he became City Attorney in 1852 and served until 1854. In 1855-6, he succeeded Charles E. Carr as State Assemblyman.

In 1851, he joined the Rangers, which were to Los Angeles almost what the Vigilantes were to San Francisco. In 1853, he was the first superintendent of schools. He was regarded a scholar, having both a personal library and a law library. He acquired the famous Indian library accumulated by Hugo Reid. His friendship with Judge Benjamin Hayes ended over the trial of William B. Lee for murder, in which Brent was defense counsel. Lee was convicted in spite of a motion for change of venue on the ground he could not have a fair trial in Los Angeles County.

Brent appealed the case. (*People v. Lee*, 5 Cal. 353.) The Supreme Court reversed the conviction, the decision stating that the failure to grant the motion for change of venue was error in ". . . that over one hundred citizens united in employing counsel to prosecute the defendant. Without any opposing affidavits, tending to show a fair trial could be had, we think that a sufficient case was made to entitle the person to a change in venue . . . It would be a judicial murder to affirm a judgment thus rendered, when the reason of the people of a whole county was so clouded with passion and prejudice as to prevent mercy and deny justice." Judge Hayes took this as a personal affront, not lessened by a movement which was started for his impeachment.

In the golden years of 1850-1860, California was still Indian country. The statutes of 1859 list various Indian wars still recurrent, and the legislature was seeking to be reimbursed by the federal government for state expenditures in repression of Indian outbreaks. Indians congregated in Los Angeles streets, some seeking for the source of contraband liquor, and others clearly showing they had found it. In Los Angeles, and about the State, there were many people about to become famous in the war between the States.

After pursuing Indians into Oregon, Capt. U. S. Grant whiled away his time at Eureka, fishing and drinking. Forced to resign

from the army in 1854, Grant made his way to San Francisco. Penniless, Colonel Simon Bolivar Buckner at the Presidio loaned him money with which to return to Illinois. Jefferson Davis, Secretary of War, established Fort Tejon in the pass of the Tehachapi, to control the Indians. General Fremont, whose forces had taken Los Angeles from the Mexicans, had turned to mining in California, and was living in Paris following his term as United States Senator. Halleck, the army engineer who had engineered the statehood of California, had resigned from the army and was practicing law in San Francisco. At Wilmington, Capt. Winfield Scott Hancock was in charge of Drum Barracks, which was the army supply installation which served the string of frontier forts throughout the Southwest. Judah P. Benjamin was considering return to Louisiana, and entry into the race for United States Senator.

A colonel of rare military attainments, Albert Sidney Johnston commanded the Department of the Pacific, and on the site of Pasadena built a new homeplace called Fair Oaks to commemorate his wife's home in Virginia.

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Could any of these men foresee what the future so shortly was to hold for them? Jefferson Davis, the President of the Confederacy; Judah P. Benjamin, his Secretary of State; Fremont fumbling the command of Union forces in Missouri; General U. S. Grant demanding and receiving the unconditional surrender of General S. B. Buckner at Fort Donelson; H. W. Halleck recalled to the army, to be Lincoln's chief of staff throughout the Civil War, known far-and-wide as "Old Brains." Soon, Winfield Scott Hancock would be flinging his division against Marye's Heights at Fredericksburg; soon he would turn back Pickett's charge at Gettysburg. E. O. C. Ord, who made the Los Angeles city survey, would become a famous general of the army and a right-hand man to Grant.

Shortly, Johnston would be opposing Halleck in the Confederate campaign in the West, and Jefferson Davis would be saying, "If Johnston is not a soldier, we have no soldiers." Soon, Albert Sidney Johnston would be lying dead on the battlefield of Shiloh (1862), and Confederates everywhere would say, "The South could better have spared an army." Soon, Johnston's son would also lose his life, in the explosion of a vessel in San Pedro Harbor named after Hancock's wife, and the California plantation of Fair Oaks, so beautifully begun, would mournfully close.

In the election of 1860, Los Angeles voted predominantly for Breckenridge, and there were strong sympathies for the South. When Albert Sidney Johnston resigned his command, and started for the Confederacy, some hundred left Los Angeles to volunteer with him. Others tried to intercept the movement. Among those who reached the Bonnie Blue Flag were Joseph Lancaster Brent and Cameron E. Thom.

As a brigadier general of the Confederate States, Brent is said to be the last Confederate officer to have finally surrendered his sword. He never returned to Los Angeles. Cameron E. Thom, late Captain, C. S. A., was to reach Los Angeles penniless at the conclusion of the war. Within twenty years, he was to be Mayor of Los Angeles, and he was to live for fifty years more to see Los Angeles fulfill its destiny, and to fulfill his own as a servant of the people, commenced when he once served as City Attorney.

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## BROTHERS-IN-LAW

*(Continued from page 314)*

The ILLINOIS Bar Association is providing its members without charge with a 1950 Roster of Members which contains the names and biographical information on over 7,000 Illinois lawyers. That this monumental effort has not exhausted its energies is attested by the fact that its Younger Members Section is sponsoring a Moot Court Competition among the law schools of Illinois.

\* \* \*

FLORIDA Law Journal has recently published a comprehensive survey of opportunities for law school graduates (and other practitioners, as well) in each of the state's 48 counties. For example, it reports that conditions of practice are considered good in Okeechobee County which now has 4 lawyers with average annual earnings of \$7,000 and average monthly expenses of \$25 for rent and \$150 for stenographic services. The lawyer-population ratio is 1:1067, the average annual rainfall is 45.82 inches, the county is predominantly rural and Okeechobee Lake which forms its southern boundary is "the largest body of fresh water wholly within the United States without a natural outlet." No mention is made of the opportunities, if any, for admiralty lawyers.

\* \* \*

The HENNEPIN COUNTY (Minneapolis) Bar Association recently conducted an impressive memorial service for its members who died during the past year. A good many of the bar association periodicals regularly carry memorials, obituaries or death notices and generally reflect a greater interest in necrology than is usually found on the California frontier.

\* \* \*

The Journal of the AMERICAN JUDICATURE SOCIETY now regards it as settled that there are two, not just one, lawyer-saints. The first is St. Ives of Brittany, born in 1253, who earned the title "Advocate of the Poor." The second is St. Thomas More, a prominent London lawyer who became Lord Chancellor and differed with Henry VIII on a point of law, to wit, the validity of his divorce from Catherine of Aragon, a difference which led to his prompt execution, in 1535, and his unhurried canonization, in 1935.

A recently survey discloses that State Bar dues are highest in ALABAMA and MINNESOTA (\$25), lowest in MAINE and MONTANA (\$3).

\* \* \*

Economic note: The PHILADELPHIA Bar Association's free dinner for its Chancellor attracted 779 hungry members; its \$5 per cover dinner for the President of the American Bar Association, 171.

\* \* \*

The BOULDER COUNTY Bar Association and the University of COLORADO School of Law recently held their annual "Law Day" which included, along with addresses by visiting law school deans, an attorney vs. law student golf tournament and a banquet honoring senior law students.

\* \* \*

Angus Ward, former Consul General at Munkden, recently addressed the annual banquet of the OHIO State Bar Association on "My Experiences With Law and Order in Communist China."

\* \* \*

Lawyers seem to have a penchant for gridiron shows. The TOLEDO Junior Bar Association and the CLEVELAND Nisi Prius Club are two groups which have recently provided this form of entertainment for themselves and their friends.

\* \* \*

An entire issue of the MASSACHUSETTS Law Quarterly was devoted to an article on the tidelands question, and it makes very good reading for Californians.

\* \* \*

The Committee on Junior Bar Activities of the Association of

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the Bar of the CITY OF NEW YORK has held two well attended "Meet the Clerks" forums at which practical aspects of practice in the Surrogate's Court were discussed by the heads of the several departments of the office of the Clerk of that court.

## SILVER MEMORIES

*(Continued from page 320)*

The U. S. C. School of Law will award degrees to seventy-nine graduates this month. Some of the new lawyers are **Bernard C. Brennan**, **David Tannenbaum** and **Maurice Jones, Jr.**

\* \* \*

**Dudley S. Valentine**, for three and a half years Registrar of the United States Land Office in Los Angeles, is retiring to engage in the practice of law with **E. Earl Crandall**. The offices of Receiver and of the Land Office here will be consolidated under **B. B. Smith**, Receiver.

\* \* \*

A committee of the Los Angeles Bar Association presented to acting Presiding Judge **Walter Guerin** of the Superior Court a fine tribute in memory of **Thomas Lee Woolwine**, distinguished former District Attorney of Los Angeles County. The Association Committee included: **W. H. Anderson**, Chairman; **Frank P. Flint**, **Jefferson P. Chandler**, Judge **Arthur Keetch** and **S. M. Haskins**.

\* \* \*

Santa Barbara was badly shaken by an earthquake which occurred at 6:45 on the morning of June 29th, causing the loss of 15 lives and \$10,000,000 in damage to structures.

\* \* \*

Two propositions will appear on the June ballot. One is a proposal to repeal the ban on jitneys in the downtown district, the second is a straw vote upon the act recently defeated in the State Assembly enabling the cities of Southern California to combine in a district for the construction of the Colorado River aqueduct.

\* \* \*

**Herman C. Lichtenberger** has resigned as head of the Probate Division of the County Clerk's office to become a State Inheritance Tax Appraiser.

\* \* \*

**Clarence Darrow**, famous Chicago attorney, and **Dudley**

**Field Malone**, former Collector of the Port of New York, have volunteered to help Prof. **J. T. Scopes** defend himself against the charges of violating the laws of Tennessee by teaching the theory of evolution.

\* \* \*

Superior Judge **John L. Hudner** has granted an injunction in the suit brought by Charlie Chaplin to restrain Charles Amador from copying the use of the famous trick hat, cane and baggy trousers. Judge Hudner ruled that the comedian is entitled to the sole use of the character which he has created.



# 38 YEARS

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Governor **Richardson** has signed the Municipal Court Bill, but has vetoed the proposed self-governing bar bill. In vetoing the latter, the Governor said "This bill proposes to establish a self-governing association of lawyers, which will in no way be responsible to the State except that its members will continue as officers of the courts and be amenable to them. I am in favor of all efforts to purify the legal and other professions, and I have the utmost respect for the promoters of this measure, but I have concluded that it is my duty to withhold my signature from this bill. No harm can result; for existing laws provide ample means for disciplining members of the bar who fail in their duty."

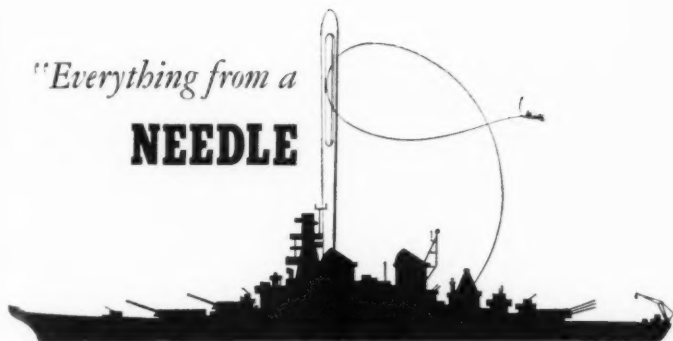
\* \* \*

Of the many justices and officers of the California Supreme Court who went into office in 1879 at the time of the adoption of the new State Constitution, only three remain: Hon. **Erskine M. Ross**, **Henry C. Finkler** and **John B. Martin**. Judge Ross continued with the Court until October, 1886, and early in 1887 was advanced to the United States District Court and later Circuit Court Bench, where he actively served until his recent retirement at the age of 79. Turning in retrospect to the first session of the Supreme Court in Los Angeles—when the then five justices met here under the old Constitution—one remembers meeting the firm of **Thom, Ross and White** ("**Captain**" **Thom**, uncle of Judge Ross, and "**Steve**" **White**, ex-U. S. Senator), Judge **Sepulveda**, **R. F. De Valle** and others, all active on the reception committee on the occasion of the Court's arrival in the then little home-town of 13,000 inhabitants, with orange and walnut groves planted westerly to the ocean from South Third Street.

Next we have Finkler, early trained in secretarial accomplishments by his father, an attorney decorated with degrees from the University of Heidelberg, who had preceded him as the Court's secretary and first librarian. Finkler has 47 years of faithful service to the Supreme Court to his credit.

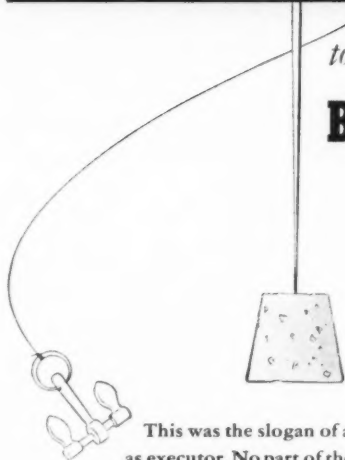
Finally, the genial "**Bee**" **Martin**, who adorned the first session of the Supreme Court as its deputy clerk from 1880-885, is now holding forth in the State Building as clerk of the District Court of Appeal, First Appellate District.

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The Fourth and Fifth Amendments to the Federal Constitution, rendering inviolable the sanctity of the home, have no bearing on a barn used as sleeping quarters, when liquor is kept in the barn, United States District Judge **Paul J. McCormick** has ruled. The Court held that even though the defendant occupied the barn as sleeping quarters, it was also used to house domesticated animals. The Fourth and Fifth Amendments were not created to preserve the rights of animals. Entry and seizure without a search warrant is therefore permitted.

\* \* \*

County Counsel **Everett W. Mattoon** has announced that legal barriers to a County recreational park at Big Pines have been swept away with the settlement of five condemnation suits against private property owners. During the past two years the County has acquired 500 acres of land for the park and leased 5,000 more acres from the Federal government.

\* \* \*

Ambassador **Frank Kellogg** in a speech in London stated that Europeans need not expect any more help from this country unless they abandon their belligerent attitudes and work along constructive lines. Regarding future loans, American sentiment is that they must be made with "discretion," and only in cases where it is apparent they will be used for constructive purposes and not for military or imperialistic purposes.

\* \* \*

State registration of motor vehicles total: automobiles 1,040,631; pneumatic trucks, 145,526; solid trucks, 37,321; motorcycles, 8,345; and trailers, 18,296.

\* \* \*

The foundation for a test case on the constitutionality of the new statute permitting corporations the privilege of issuing stock of no-par value has been started. Secretary of State **Frank C. Jordan** has refused to accept for filing articles of incorporation providing for no-par shares. A petition for writ of mandate will be filed in the Supreme Court for the purpose of testing the new law. Jordan contends that the law granting California corporations the privilege of issuing stock of no-par value would alter the liability of stockholders to creditors of such corporations and also materially alter the voting power of stockholders.





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